

UNITED STATES DISTRICT COURT
FOR THE
DISTRICT OF VERMONT

UNITED STATES OF AMERICA, :
: :
: :
v. : Case No. 2:12 CR 65-1
: :
KEVIN HARRIS : :

ORDER

The Report and Recommendation of the United States Magistrate Judge was filed February 27, 2018. Defendant's supplemental documents were filed on March 5, 2018 and objections were filed March 20, 2018.

A district judge must make a *de novo* determination of those portions of a magistrate judge's report and recommendation to which an objection is made. Fed. R. Civ. P. 72(b); 28 U.S.C. § 636(b) (1); *Perez-Rubio v. Wyckoff*, 718 F. Supp. 217, 227 (S.D.N.Y. 1989). The district judge may "accept, reject, or modify, in whole or in part, the magistrate's proposed findings and recommendations." *Id.*

After careful review of the file, the Magistrate Judge's Report and Recommendation and the objections, this Court ADOPTS the Magistrate Judge's recommendations in full.

The motion under 28 U.S.C. §2255 to vacate, set aside or correct a sentence by a person in federal custody (Doc. 106) is DENIED. In addition, the defendant's request for appointment of counsel contained within said motion is DENIED AS MOOT. The government's motion to dismiss (Doc. 108) is

GRANTED.

Pursuant to Fed. R. App. P. 22(b), a certificate of appealability is DENIED because the petitioner has failed to make a substantial showing of denial of a federal right. Moreover, the petitioner's grounds for relief do not present issues which are debatable among jurists of reasons, which could have been resolved differently, or which deserve further proceedings. *Lucidore v, New York State Div. Of Parole*, 209 F.3d 107, 112 (2d Cir. 2000).

It is further certified that any appeal would not be taken in good faith, and permission to proceed *in forma pauperis* is therefore DENIED. See 28 U.S.C. § 1915(a)(3).

THIS CASE IS CLOSED.

Dated at Burlington, in the District of Vermont, this 27th day of March, 2018.

/s/ William K. Sessions III
William K. Sessions III
U.S. District Court Judge